IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE KURIAN JOSEPH
&
THE HONOURABLE MR. JUSTICE K.T.SANKARAN

TUESDAY, THE 27TH MARCH 2007 / 6TH CHAITHRA 1929

WP(C).No. 1455 of 2007(S)

AGAINST THE ORDER IN EA.11/06,EP.9/01 IN
OP.52/1999 of FAMILY COURT,KOZHIKODE
.....

PETITIONER

UNNIKRISHNAN, AGED 42 YEARS,
S/O. LATE SANKARANKUTTY, KORACHANKUZHIYIL HOUSE,
VENGERI AMSOM DESOM, KOZHIKODE TALUK.

BY ADV. SRI.R.SUDHISH
SMT.M.MANJU

RESPONDENTS

1. KORACHANKUZHIYIL MADHAVI, AGED 63 YRS,
W/O. LATE SANKARANKUTTY, METHALA MENANCHERI HOUSE,
VENGERI AMSOM AND DESOM OF KOZHIKODE TALUK.

2. KORACHANKUZHIYIL SOBHANA, D/O. MADHAVI,
METHALA MENANCHERI HOUSE,
VENGERI AMSOM AND DESOM OF KOZHIKODE TALUK.

BY ADV. SRI.V.V.SURENDRAN
SRI.P.A.HARISH

THIS WRIT PETITION (CIVIL) HAVING BEEN FINALLY HEARD ON 27/03/2007, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

APPENDIX

PETITIONER'S EXHIBITS:

Ext.P1: True copy of the affidavit filed by the respondent before the Family Court, Kozhikode to restore E.P.No.9/2001.

Ext.P2: True copy of the counter filed by the petitioner in the above petition.

Ext.P3: True copy of the order dated 27.11.2006 in E.A.No.11/06 in E.P.9/2001 in O.P.52/99 of Family Court, Kozhikode.

// True copy //

P.A. to Judge

jes

KURIAN JOSEPH & K.T.SANKARAN JJ.

- -

W.P.(C)NO.1455 OF 2007

- -

Dated this the 27th day of March 2007

JUDGMENT

Sankaran, J.

Petitioner challenges Ext.P3 order by which the court below restored E.P.9/2001 which was dismissed for default. Petitioner contends that the court below was not justified in restoring the execution petition. It is contended that the first respondent was no more at the time when the court below passed the order for restoration. Learned counsel for the respondent submitted that application for impleading was filed as E.A.12/06 and that petition was allowed on 8.12.2006. Since the legal representatives of deceased first respondent in the E.P. have already been impleaded, we do not think it is necessary to interfere with the order passed by the court below restoring execution. Now all the parties are before the executing court and E.P. will be disposed of on the

merits. The writ petitioner is entitled to raise all the contentions which are available to him as per law in the execution.

KURIAN JOSEPH, JUDGE

K.T.SANKARAN, JUDGE

jes